

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re D.G., et al., Persons Coming Under
the Juvenile Court Law.

B235330

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. CK72488)

Plaintiff and Respondent,

v.

DA.G.,

Defendant and Appellant;

D.G., et al.,

Appellants.

APPEAL from a judgment of the Superior Court of Los Angeles County.

Stephen C. Marpet, Juvenile Court Referee. Affirmed.

Gerard McCusker, under appointment by the Court of Appeal, for Defendant and Appellant Da.G.

Judy Weissberg-Ortiz, under appointment by the Court of Appeal, for Appellants D.G., et al.

John F. Krattli, Acting County Counsel, James M. Owens, Assistant County Counsel, Tracey F. Dodds, Principal Deputy County Counsel, for Plaintiff and Respondent.

Mother Da.G. and her four children, two who share one father and two who share another father, appeal from the judgment entered after the juvenile court declared the children dependents of the court, placed them with their respective fathers and then terminated jurisdiction pursuant to family law orders. Mother and the children contend that the evidence is insufficient to support the court's finding that the children came within the meaning of Welfare and Institutions Code section 300, subdivisions (b) and (g).¹ Because substantial evidence supports the court's finding under section 300, subdivision (g), we affirm the judgment.²

FACTUAL AND PROCEDURAL BACKGROUND

1. *Mother's Incarceration, Arrangement for Care of Her Children and the Domestic Violence Incident*

In August 2010, mother began a term of incarceration for theft. She arranged for her brother (maternal uncle) and his longtime girlfriend to care for her four children, at the time ranging in age from 3 to 12. Maternal uncle and his girlfriend had three children of their own, and the girlfriend had an older daughter from a previous relationship. About six months later, on February 17, 2011, the Department of Children and Family Services (DCFS) received a child abuse referral regarding mother's children. The referral related to a domestic dispute on February 8, 2011, between maternal uncle and his girlfriend while the children were home. According to a police report, the dispute arose from the girlfriend's suspicion that maternal uncle had been unfaithful to her. After

¹ Statutory references are to the Welfare and Institutions Code.

² Because we conclude that the juvenile court properly exercised jurisdiction under section 300, subdivision (g), we need not address mother's and the children's additional contention that the evidence is insufficient to support jurisdiction under section 300, subdivision (b). (See *D.M. v. Superior Court* (2009) 173 Cal.App.4th 1117, 1127 [addressing juvenile court's findings under only § 300, subd. (g), not § 300, subd. (b), because "jurisdiction may rest on a single ground"]; *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875 ["reviewing court may affirm a juvenile court judgment if the evidence supports the decision on any one of several grounds"]; § 300, par. 1 ["Any child who comes within *any* of the following descriptions is within the jurisdiction of the juvenile court" (*italics added*)].)

the girlfriend found a used condom in a car she shared with him, she broke the windshield of the vehicle by striking it with a pipe. He retaliated by grabbing and choking her. He ripped off her bra, pushed her out the front door and locked it. Her older daughter let her back into the house. Maternal uncle and his girlfriend resumed arguing. He then threw her on the bed and got on top of her. Her older daughter called 911. The police arrived and arrested him.

Several days later, DCFS visited the home and interviewed the girlfriend and mother's children. Although the girlfriend reported that maternal uncle no longer lived in the home, she admitted that she "allowed [him] to visit the home and to pick up his mail and personal belongings on a daily basis." The children reported that he slept there. DCFS observed male clothing, including boxer shorts, a shirt and jeans on the floor of the master bedroom. DCFS also learned that one of mother's children, who is deaf, had not been enrolled in school, and that two of her other children had not received services to address their autistic behavior.

DCFS interviewed mother on March 3, 2011. Mother stated, "I did leave my children with my brother . . . and [his girlfriend]. I had no idea about the domestic violence incidents." When the social worker asked mother about the couple's domestic violence history, mother replied, "I knew some of the incidents when they argued with each other[.] 'I knew nothing about any physical incidents between [the girlfriend] and my brother. I would not have put my kids in the home if I'd known.'" According to mother, she was unaware of any prior incidents when the police had come to maternal uncle and his girlfriend's home because of a domestic dispute. Mother said, "I am aware of [my brother and his girlfriend's] verbal arguments, but I [have] never seen them "getting physical with each other." They lived together as a couple to my knowledge. The reason that I let my kids live with my brother and [his girlfriend][] was that I did not have any support. The fathers do not help at all. It has been really rough and it took me three months to take care of this. My brother was the one person that I felt I could call at that time.' . . . 'I had no choice about placing the siblings with their respective fathers because I do not want to separate them.'"

On March 3, 2011, DCFS also interviewed the father of the two younger children. He reported ““witness[ing] a physical fight last year between [maternal uncle and the girlfriend] at [his] house.”” Mother, the two younger children and maternal uncle were visiting the father when the girlfriend ““showed up and was very upset banging on [father’s] front door. [He] told her to leave [them] alone. . . . [He] had to call the police after she came back and hit [his] security door with a pole. She damaged the front door.””

On March 8, 2011, DCFS detained mother’s children. That day, the social worker “observed a male in the home that left immediately during the detention of the four children.” DCFS placed the two older children with the maternal grandfather and the two younger children with their father.

2. *The Section 300 Petition and Placement of the Children*

On March 11, 2011, DCFS filed a section 300 petition under subdivisions (a) and (b) seeking juvenile court jurisdiction over mother’s children. At a hearing that day, the juvenile court determined that detention was proper and ordered the children placed with their respective fathers. The two older children thus were moved from placement with the maternal grandfather to their own father.

Three days later, on March 14, 2011, DCFS filed an amended petition, alleging against mother, under section 300, subdivisions (b) and (g), that “[i]n August of 2010, the children[’s] . . . mother . . . was incarcerated. The mother made an inappropriate plan for the children’s care and supervision by placing the children in the care of the children’s maternal uncle . . . who exposed the children to violent altercations on February 8, 2011, in which the maternal uncle choked the maternal uncle’s female companion . . . in the children’s presence. The mother’s inappropriate plan for the children’s care and supervision endangers the children’s physical health and safety and places the children at risk of physical harm, damage and danger.” At the hearing on the amended petition, also on March 14, 2011, the juvenile court dismissed the original petition, determined that the fathers were nonoffending and ordered family maintenance services for the fathers and reunification services for mother, noting her incarceration.

The court directed DCFS to address whether continued jurisdiction was necessary given that the children had been released to their fathers.

At the pretrial resolution conference on April 26, 2011, the juvenile court found the fathers to be presumed fathers of their respective children and appointed counsel for mother. On June 6, 2011, the court scheduled an adjudication hearing for August 2, 2011.

3. *The Juvenile Court's Jurisdiction and Disposition*

At the adjudication hearing on August 2, 2011, the juvenile court sustained the allegations in the amended petition under section 300, subdivisions (b) and (g), declaring the children to be dependents of the court. On August 5, 2011, the court terminated jurisdiction over the two younger children and entered a family law order awarding sole legal and physical custody to their father. On August 10, 2011, the court terminated jurisdiction over the two older children and entered a family law order awarding sole legal and physical custody to their father. The court determined that mother should have reasonable, unmonitored visits with her children upon her release from custody.

Mother and the children filed timely notices of appeal. (§ 395, subd. (a)(1); see *In re Tracy Z.* (1987) 195 Cal.App.3d 107, 112 [jurisdictional findings reviewable on appeal from the judgment following disposition].)

DISCUSSION

As relevant here, section 300, subdivision (g), invokes the jurisdiction of the juvenile court and permits it to adjudicate a child a dependent of the court when “the child’s parent has been incarcerated . . . and cannot arrange for the care of the child” “The purpose of section 300 is ‘to identify those children over whom the juvenile court may exercise its jurisdiction and adjudicate dependents.’ [Citation.]” (*In re A.O.* (2010) 185 Cal.App.4th 103, 110.) To declare a child a dependent under section 300, the juvenile court must find by a preponderance of the evidence that the allegations are true. (*In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1318; see § 355, subd. (a).) We review the court’s findings under section 300 for substantial evidence and will affirm the

judgment based on those findings if they are supported by reasonable, credible evidence of solid value. (*Matthew S.*, at p. 1319.)

Mother and the children contend that jurisdiction was improper under section 300, subdivision (g), because no evidence suggests that, although she was incarcerated at the time of adjudication, she could not arrange appropriate care for her children. We disagree.

The amended petition alleged that, when incarcerated in August 2010, “mother made an inappropriate plan for the children’s care and supervision by placing the children in the care of . . . maternal uncle . . . who exposed the children to violent altercations on February 8, 2011, in which the maternal uncle choked [his girlfriend] . . . in the children’s presence. The mother’s inappropriate plan for the children’s care and supervision endangers the children’s physical health and safety and places the children at risk of physical harm, damage and danger.”

The parties do not dispute that a physical altercation between maternal uncle and his girlfriend occurred on February 8, 2011. Although the children did not necessarily witness the altercation, they were home, and the girlfriend’s older daughter intervened by calling 911. Although mother claimed that, at the time she arranged care for her children, she was unaware of any history of physical altercations between the couple, she admitted that she knew maternal uncle and his girlfriend argued with each other. In addition, the father of the two younger children reported that mother, maternal uncle and two of mother’s children had been present at the father’s home during a violent incident involving maternal uncle’s girlfriend. The girlfriend, then upset with maternal uncle, banged on the father’s front door. After the father asked her to leave, she came back and hit his security door with a pole, damaging the front door and causing him to call the police. According to the evidence, therefore, mother knew that maternal uncle and his girlfriend argued and that, at minimum, the girlfriend had engaged in violent behavior in the presence of two of mother’s children. Substantial evidence thus supports the juvenile court’s finding that, given the domestic disputes between maternal uncle and his girlfriend, the plan for the children to live with them was inappropriate.

Although at the time of adjudication the children no longer lived with maternal uncle and his girlfriend, and had been placed with their respective fathers, mother still was incarcerated. Jurisdiction allowed the juvenile court to enter family law orders awarding sole legal and physical custody to the fathers so that they could enroll the children in school and make necessary parenting decisions while mother continued her incarceration. Under these circumstances, where mother's initial arrangement for care of her children was inappropriate and jurisdiction ensured an appropriate placement for the children with their fathers, substantial evidence supports the juvenile court's findings under section 300, subdivision (g).

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, Acting P. J.

We concur:

CHANEY, J.

JOHNSON, J.